IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc. Application No.837 of 2005

S.N.Rana s/o Late Badar Rana
Chief Editor Shah Times
Krishna Loha Bhandar 1st floor
Kaladhungi Road Haldwani,
District Nainital. Applicant.

Versus

1 State of Uttaranchal
2 Chief Judicial Magistrate, Almora
3 Sessions Judge, Almora
4 Manoj Gupta s/o Sri Suraj Prasad Gupta
R/o Karkhana Bazar, Almora opposite parties.

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed by the applicant for quashing further Proceedings in Criminal case No. 1298 of 2003 Manoj Gupta vs S.N.Rana Pending before the court of Chief Judicial Magistrate, Almora.

Brief facts giving rise to this petition are that the petitioner is Chief Editor of Shah Times published from Haldwani Nainital. This news paper has a local office at Almora.

A news item appeared in this news paper published on 13.10. 2003 to the affect that there was a raid in the house of respondent No.4 and 33 gas cylinders were recovered during the raid.

After the aforesaid news item was published, respondent No.4 Manoj Gupta filed a complaint against the petitioner before the court of Chief Judicial Magistrate, Almora.

The complainant/respondent No.4 got himself examined under Section 200 Cr.P.C and thereafter he also got his witnesses examined under Section 202 Cr.P.C.

The learned Chief Judicial Magistrate after perusing the entire evidence on record was pleased to summon the petitioner for facing the trial under Section 500 IPC vide order dated 8.3.2004.

The petitioner preferred a revision against the aforesaid order before the revisional court which was also dismissed by the Learned Sessions Judge, Almora vide order dated 22.8.2005.

The petitioner feeling aggrieved from the aforesaid impugned order, thereafter preferred this petition before this court.

Heard , learned counsel for the petitioner , learned AGA and perused the record.

The learned counsel for the petitioner has argued that the learned Chief Judicial Magistrate without taking into consideration the facts and circumstances of the case and without application of mind has summoned the petitioner. He has also submitted that on the allegations made by the complainant no offence is made out against the petitioner.

The contention raised by the learned counsel for the petitioner relates to the factual aspect of the matter and can be assessed and examined by the trial court at the time of trial. This court is not to embark upon an inquiry as to the reliability of evidence and sustainability of the accusation on a reasonable appreciation of evidence.

At this stage while exercising the power under Section 482 Cr.P.C, I am not supposed to deliver any premature decision in a case where the evidence is yet to be assessed and examined by the trial court. I also do not find any flagrant injustice or abuse of the process of court in this case.

Accordingly the petition is dismissed.

(B.C. Kandpal, J.)

28.11.2005